

**EXHIBIT 1**  
**Part 3 of 3**

1 of the seat and put them together, and those  
2 instructions came in a piece of paper that  
3 Sacramento sent to me, and I automatically - and  
4 automatically I had that understanding that you  
5 couldn't transport both things together when you  
6 were transporting from one place to another.  
7 The piece of paper says that I had the hood  
8 open, and that I had the weapon there, no. No,  
9 that isn't correct, and I'm not taking the case  
10 apart, because a crime is a crime.

11 THE INTERPRETER: I need a clarification  
12 from the prisoner. [Addressing Inmate.]

13 INMATE MARROQUIN THROUGH THE INTERPRETER:  
14 Excuse me. I'm not minimizing the case. That  
15 isn't my intention, but the papers from the  
16 accusing party - I call it the accusing party  
17 because that's how I understand it, because they  
18 say one thing and it's different from other  
19 versions. I was - I testified, I was questioned  
20 in front of a judge, and including the jury  
21 panel, the district attorney, everything, but if  
22 you allow me to give you an example -

23 ATTORNEY RUTLEDGE: Let me stop there  
24 because I want to point by point.

25 INMATE MARROQUIN THROUGH THE INTERPRETER:  
26 Yes, but allow me, please. Allow me just a  
27 moment. The papers say that it was two shots.

1 It was one. The papers say that I was given 15  
2 years to life, and that was from the judge, but  
3 it states there that it's 21, and no, that isn't  
4 correct. That's not correct. If you allow me,  
5 I can show you something.

6 PRESIDING COMMISSIONER SHELTON: Senor,  
7 the papers says 18.

8 INMATE MARROQUIN THROUGH THE INTERPRETER:  
9 Yes, but there are others right here. Eighteen  
10 plus three, that's 21.

11 PRESIDING COMMISSIONER SHELTON: It's 15  
12 plus three.

13 INMATE MARROQUIN THROUGH THE INTERPRETER:  
14 Well, yes, but I'm only making emphasis of how  
15 everything is turned around.

16 ATTORNEY RUTLEDGE: Okay. Well, let me -  
17 that's why we want to make sure that we  
18 understand what you were explaining. So you had  
19 said that two gentlemen pulled you away from was  
20 that the inside of a bar?

21 INMATE MARROQUIN THROUGH THE INTERPRETER:  
22 Exactly.

23 ATTORNEY RUTLEDGE: And one of those two  
24 gentlemen was the individual that you had had a  
25 conflict with regarding the car? The one that  
26 was shot?

27 INMATE MARROQUIN THROUGH THE INTERPRETER:

1 Unfortunately, (indiscernible) there pulled me,  
2 picked me up and pushed me out. That is the  
3 victim.

4 ATTORNEY RUTLEDGE: Okay. And so then  
5 outside there was the - they got into their car,  
6 you tried to get away, and that's when all  
7 (indiscernible)?

8 INMATE MARROQUIN THROUGH THE INTERPRETER:  
9 Exactly.

10 ATTORNEY RUTLEDGE: Okay. And at some  
11 point that's when you grabbed a weapon; is that  
12 right?

13 INMATE MARROQUIN THROUGH THE INTERPRETER:  
14 I don't understand. How's that?

15 ATTORNEY RUTLEDGE: Okay. Well, somehow  
16 you got the gun in your hand.

17 INMATE MARROQUIN THROUGH THE INTERPRETER:  
18 Correct.

19 ATTORNEY RUTLEDGE: Where were these two  
20 gentlemen when you had the gun in your hand?

21 INMATE MARROQUIN THROUGH THE INTERPRETER:  
22 I was alone. They had left. They had left. I  
23 came to the car, I sat down, and I was there for  
24 a little bit when I see that they show up, on  
25 top of me, and then I - I run. I'm armed and  
26 they follow me. When they see that I'm running,  
27 they follow me, I walk and they're right next to

1 me. I would come back, and they come and the  
2 (indiscernible) and we were doing that back and  
3 forth, and I went fast to where the people were,  
4 and they turned around in the street. That's  
5 where I was attacked the second time.

6 ATTORNEY RUTLEDGE: Okay. So there had  
7 been the altercation at the bar, the  
8 (indiscernible), you sat in the car, then they  
9 approached you again, so you tried to get away,  
10 and you (indiscernible) the people at the bar  
11 because you thought that they would be some type  
12 of protection.

13 INMATE MARROQUIN THROUGH THE INTERPRETER:  
14 I wanted to be where there was people at.

15 ATTORNEY RUTLEDGE: Okay. And that's  
16 when you indicated that the - the victim in the  
17 case approached you with a beer bottle, a broken  
18 beer bottle, and that's when you shot?

19 INMATE MARROQUIN THROUGH THE INTERPRETER:  
20 Exactly.

21 ATTORNEY RUTLEDGE: So - so the people  
22 that were at the bar wouldn't have necessarily  
23 seen the people that were outside of the bar  
24 would not necessarily see all these things that  
25 happened prior to the last incident?

26 INMATE MARROQUIN THROUGH THE INTERPRETER:  
27 That people - or better yet said, when somebody

1 sees a problem, you automatically nobody wants  
2 to - how do you say - help another person, or  
3 not really help, but get involved, so on the  
4 second time, in front of the bar, we had the  
5 problem, we had the problem.

6 ATTORNEY RUTLEDGE: Okay.

7 INMATE MARROQUIN THROUGH THE INTERPRETER:  
8 The attorney in court had the bottle in his hand  
9 and asked if that would kill someone. I - I  
10 felt death three times like that.

11 ATTORNEY RUTLEDGE: Now let's switch  
12 gears a little bit. The - the person that was  
13 shot you had known before and you felt that that  
14 person owed you money; is that right?

15 THE INTERPRETER: And you felt that  
16 person was a threat.

17 ATTORNEY RUTLEDGE: No, owed you money.

18 INMATE MARROQUIN THROUGH THE INTERPRETER:  
19 Yes.

20 ATTORNEY RUTLEDGE: Now if you start your  
21 - your business and somebody doesn't pay you and  
22 you get upset, how are you going to handle that?

23 INMATE MARROQUIN THROUGH THE INTERPRETER:  
24 That's why it's very clear, and I've said it and  
25 it's been said, others - that had already gone  
26 by, months had gone by. I didn't care about  
27 that anymore. No, I didn't care about that.

1           ATTORNEY RUTLEDGE: Okay. But - but if  
2 that happens, how are you going to handle it?

3           INMATE MARROQUIN THROUGH THE INTERPRETER:  
4 You mean once again, if it's somebody new?

5           ATTORNEY RUTLEDGE: If you start your  
6 business, you put a lot of work into what you  
7 did and that person doesn't pay you, how are you  
8 going to handle it? What are you going to do?

9           INMATE MARROQUIN THROUGH THE INTERPRETER:  
10 I come up with the perfect conclusion. How can  
11 it be possible to - possible to commit a  
12 stupidity after 15 years here for something  
13 stupid that I did and do it again? That's  
14 impossible. Impossible. No.

15           ATTORNEY RUTLEDGE: It sounds like the -  
16 the - the course - and correct me if I'm wrong,  
17 it sounds like the course that the commissioner  
18 about you about, that if you don't have  
19 (indiscernible) gave you a great appreciation  
20 for life; is that right?

21           INMATE MARROQUIN THROUGH THE INTERPRETER:  
22 Exactly.

23           ATTORNEY RUTLEDGE: And it - would your  
24 feelings be that life is more valuable  
25 (indiscernible)?

26           INMATE MARROQUIN THROUGH THE INTERPRETER:  
27 Life has no price.

1           ATTORNEY RUTLEDGE:   Thank you.

2           PRESIDING COMMISSIONER SHELTON:   Thank  
3   you very much.   All right.   At this time we will  
4   move into closing statements, and we'll start  
5   with you, Mr. Pearson.   Do you have a closing  
6   statement?

7           DEPUTY DISTRICT ATTORNEY PEARSON:   Yes.  
8   This is a killing that didn't need to happen,  
9   which of course is a lot of them that we see,  
10   but it certainly didn't need to happen.   I  
11   understand the Inmate getting angry in the  
12   situation there, it was a frustrating situation,  
13   somebody's cheating him of what is it?   A  
14   thousand dollars or something as I understand  
15   it, and I can see that, see being very angry,  
16   but he had a golden opportunity to walk away  
17   from this thing without anything happening,  
18   that's when he went back to his vehicle.   He  
19   could have just gotten in the car and driven  
20   away, and that would have been the end of that,  
21   at least for that confrontation time, he  
22   could've done something else, maybe sued the  
23   person in - in court, or done something, hired  
24   somebody to try and collect it for him, or done  
25   something else, but instead he chose to get the  
26   weapon and load it, and from what he's  
27   describing there it sounds like maybe this is a



1 - apparently a pistol where you have a clip that  
2 you remove from the pistol that may or may not  
3 have bullets in - in the remainder of the gun,  
4 and I gather they had instructed that he's not  
5 to have them together, keep the clip one place  
6 and the - and the gun somewhere else. This is  
7 what I would interpret him saying. Instead, he  
8 put the two obviously together, came back,  
9 confronted the person that was giving him the  
10 trouble, and pulled the - attempted to pull the  
11 slide up and put one of the bullets into the  
12 chamber so it would be fireable, and it didn't  
13 go in apparently, and so he tried clicking the  
14 gun, and then pulled it back again and put the  
15 chamber - or the - the - the - what am I saying  
16 here, the - the clip back into the gun where it  
17 this hit - the weapon - or bullet went into the  
18 chamber there and he fired it, hitting the - the  
19 victim here and causing him the - the injury  
20 that ultimately caused the man's death. So it  
21 took some doing there, and he could've not done  
22 that again when it - when the clip didn't go in  
23 and he wasn't able to load the gun, he could've  
24 stopped at that point and I suppose just walked  
25 away with maybe a threat to the person. And the  
26 second time he could've too, but instead he - he  
27 persisted, and fired the gun, so there's a lot

1 of thought and effort went into this, and I - I  
2 think premeditation went into it, and I believe  
3 that the - it sounded like it might've been a  
4 jury trial, I'm not sure, but it sounds like the  
5 - the trier of fact heard all of these facts and  
6 rejected his self-defense argument here, that  
7 the person had a - a broken bottle or something  
8 there that would have threatened him.  
9 Apparently the trier of fact did not accept that  
10 and convicted him, forgetting the so-called  
11 self-defense situation. The aggravating factor  
12 here, of course, was the alcohol. I guess he  
13 was under the influence at the time, which  
14 probably clouded his judgment and his thinking  
15 into making some really deadly decisions here,  
16 causing the victim's death. So I think the  
17 danger here is, he thinks clear when he's here  
18 in prison, and I - I liked his reasoning here  
19 with a lot of what he was telling the - the  
20 Board, I thought it made sense, but I'm afraid  
21 if he gets back out, and it sounds like he's  
22 very much down on alcohol now, gets back into  
23 the community and has alcohol available to him  
24 and freely offered to him by probably a lot of -  
25 a lot of friends and - and acquaintances that he  
26 has, "Oh, go ahead, just have one, you'll be  
27 okay, oh, just another one," and you're under

1 the influence again and you get in some sort of  
2 conflict, we could potentially have another  
3 deadly situation, and that's what concerns me,  
4 that this is what happens when he's readily  
5 available as far as the alcohol with that sort  
6 of a - a background that he has and a mindset.  
7 So I would urge the - the Board at this time to  
8 reject his request for parole and - and I'll  
9 leave it at that.

10 PRESIDING COMMISSIONER SHELTON: All  
11 right. Thank you, sir. Mr. Rutledge, closing  
12 statement?

13 ATTORNEY RUTLEDGE: Thank you,  
14 Commissioner. I think the - the people bring up  
15 a good point regarding the alcohol, and I think  
16 Mr. Marroquin has expressed to the Board his  
17 contempt at this point for alcohol and - but  
18 it's easy to - to say that and have it just be  
19 words, but I think he's - he's demonstrated in a  
20 couple of different way that he actually feels  
21 that way. One is that he's continued with AA,  
22 and as the Commissioners brought out, he even  
23 was the chairman, and even beyond that, we all  
24 know that there's pruno in prison, and it was  
25 brought out in the psychological report that  
26 he's rejected it. He's had the opportunity to  
27 go have a drink in here if he wanted to have a

1 drink, and he hasn't, and so he's showing that  
2 his actions are following up with what his words  
3 are. If we look at the fact that he had no  
4 prior criminal history, he's done his self-help.  
5 The Board asked him to obtain a vocation, he  
6 basically certified what he already knew how to  
7 do so that the Board would have some evidence to  
8 show that he knows how to do what he said that  
9 he could do. He's got good parole plans, he  
10 knows that he's going to get deported, he's made  
11 arrangements with his wife, he has a home to go  
12 to, he's - I think he's somewhat of an  
13 entrepreneur, he started his marble business,  
14 and now he's wanted to move on to doing that -  
15 being a diesel mechanic. I think that's all  
16 very commendable, and based on that, I would  
17 request that he be given a date. Thank you.

18 PRESIDING COMMISSIONER SHELTON: Mr.  
19 Marroquin, this is your time to tell us why you  
20 think we should parole you or give you a parole  
21 date.

22 INMATE MARROQUIN THROUGH THE INTERPRETER:  
23 Very well. Really with any given - at no time,  
24 with nothing, can you pay for a life. I have  
25 committed a crime, and that crime hurts me a  
26 lot. It has been inside my mind for 15 years,  
27 and maybe for some - a few more years of life I

71

1 shall have until I die. I don't ask, I offer as  
2 much to the community and the family of the  
3 victim that I have harmed two families. I offer  
4 my true condolences to that family that I  
5 harmed, including - including my own family.  
6 It's two lives - excuse me - it's two families  
7 that I have harmed. I feel so miserable, and  
8 even after 15 years my plan to survive the  
9 little that I have left is in Guatemala. It  
10 depends on you. Sincerely I'm not going to  
11 thank for it, my family will, but there's no way  
12 that I can have in my mind that I have already  
13 paid for this, no. Once again I will repeat  
14 myself. You cannot pay for a life, and really,  
15 I would like to go back to Guatemala. Thank you  
16 from the gentleman's words. I don't know what  
17 his name is, but the district attorney, right?  
18 And here my attorney, you as an interpreter, and  
19 you as members that can decide for my life. I  
20 would like to add more, much more, but I know  
21 time is valuable to you, and thank you very  
22 much.

23 PRESIDING COMMISSIONER SHELTON: Thank  
24 you, sir. We will now recess for deliberations.  
25 It is 1:50 p.m.

26 R E C E S S

27 --oOo--

1 CALIFORNIA BOARD OF PAROLE HEARINGS

2 D E C I S I O N

3 DEPUTY COMMISSIONER KEENAN: Back on  
4 record.

5 PRESIDING COMMISSIONER SHELTON: All  
6 right. For the record, it is 2:25. We are here  
7 in the matter of Marco Marroquin, CDC number  
8 H-62380. Everyone has returned to the hearing  
9 room that was here during the hearing. The  
10 panel has received and reviewed all the  
11 information and relied on the following  
12 circumstances in concluding that Mr. Marroquin  
13 is not yet suitable for parole and would pose an  
14 unreasonable risk of danger to society or a  
15 threat to public safety if released from prison.  
16 I'm going to take things a little out of order  
17 here, sir. We're giving you one year. The last  
18 hearing you had three years. You have done an  
19 extraordinarily wonderful job. There's a few  
20 more things we think you need to do to assure  
21 that you can get through this parole process,  
22 and the reason I say that is this. We're not  
23 the only ones you have to impress. There's  
24 another Board hearing, or a panel that does a  
25 review, and then it goes to the Governor. They  
26 don't get to see you. We get to see you. We're  
27 M. MARROQUIN H-62380 DECISION PAGE 1 6/6/06

1 impressed by your presentation, we're impressed  
2 by what you've done, and I'm going to go through  
3 this stuff, but we know that there's other  
4 things that people are going to ask that we want  
5 you to get done ahead of time. Does - do you  
6 understand what I'm saying to you?

7 INMATE MARROQUIN THROUGH THE INTERPRETER:

8 Correct.

9 PRESIDING COMMISSIONER SHELTON: All  
10 right. I'm going to go through this and I'm -  
11 we have a couple of things that we are going to  
12 need you to do this next year. Again, we are  
13 totally impressed by your presentation today, we  
14 believe you to be telling us the truth, and we  
15 have a couple of things that we need you to do  
16 to assure that you're a - you're a step closer,  
17 okay? First of all, we know that this was -  
18 this commitment offense was a - a terrible  
19 offense. You know, you had an opportunity to  
20 walk away. You didn't. I know you mentioned  
21 you felt your life was being threatened, but I  
22 think there was a time where you could've walked  
23 away. You said you sat in your car for a little  
24 bit. The motive for this crime was very trivial  
25 in relation to the offense. These statements  
26 were drawn from the summary of the crime that  
27 M. MARROQUIN H-62380 DECISION PAGE 2 6/6/06

1 was noted in the November 2002 Board Report and  
2 carried on to the - let me get the month right  
3 here - November 2005 Board Report. You have no  
4 previous record whatsoever. That be on the  
5 record. It appears that your social history was  
6 not unstable, and again, you had no prior  
7 criminality. I want to talk about your  
8 institutional behavior. You have received  
9 absolutely zero 115s. That is extraordinarily  
10 rare, Mr. Marroquin. That shows exemplary  
11 behavior. You received two 128a's, the last one  
12 being in June of '93. Again, exemplary  
13 behavior. You've been participating in AA and  
14 NA since '95. And I'm going to mix some of  
15 these things, because we talk about  
16 institutional behavior both positively and  
17 negatively, but one of the things that we would  
18 ask you to do is to try to participate in  
19 another self-help program or two. You've done -  
20 what you've participated in is excellent, but we  
21 think other people may review your file without  
22 you sitting in front of them and say, "You  
23 should've done, could've done more self-help  
24 programs." So do what you can to get into  
25 anything you can this next year.

26 INMATE MARROQUIN THROUGH THE INTERPRETER:

27 M. MARROQUIN H-62380 DECISION PAGE 3 6/6/06



1 Correct.

2 PRESIDING COMMISSIONER SHELTON: You  
3 understand, sir? All right. Your  
4 psychiatrist's report was favorable. Dr.  
5 Macomber indicated that you had a GAF rating of  
6 85. The report was positive. He indicated you  
7 showed genuine remorse, and he felt that if  
8 paroled, you would be better on parole - you  
9 would be in the top 2 percent for success. He  
10 says that there are no risk factors, and the  
11 prognosis for your success is good. Your parole  
12 plans are good. This is one other area that we  
13 need you to something for yourself. You have  
14 excellent parole plans for Guatemala. There is  
15 a very slim chance that you could possibly be  
16 paroled here. You have a home here and your  
17 family here, so that side's okay. What you need  
18 to do is to see if you can get any kind of  
19 support letter showing that you could  
20 potentially get a job in Los Angeles if you  
21 needed to. Comprene?

22 INMATE MARROQUIN THROUGH THE INTERPRETER:  
23 Yes. But?

24 PRESIDING COMMISSIONER SHELTON: No, no  
25 buts. No buts. You need to find - you need to  
26 at least - you have two skills that I'm aware

1 of, sir. You've got your diesel mechanic skill,  
2 and by your own words you indicated that you had  
3 worked in marble and you had started your own  
4 business. We know that you have the ability to  
5 provide for yourself. Commissioner Keenan and I  
6 believe that you can take care of yourself and  
7 your family no problem, but you've got to  
8 convince other people of that too, so get  
9 something that says that you can have - or you  
10 can find work, you have the abilities to find  
11 work. I mean, Commissioner Keenan called you an  
12 entrepreneur. That means you can survive on  
13 your own with your skills and your intellect,  
14 but you need to show that that can happen here,  
15 just on that off chance that you don't go to  
16 Guatemala right out the door. Now that doesn't  
17 mean that if you do - if you do get paroled here  
18 someday, you do well on parole here, then  
19 eventually you can go to Guatemala.

20 INMATE MARROQUIN THROUGH THE INTERPRETER:

21 Can I answer to that?

22 PRESIDING COMMISSIONER SHELTON:

23 Certainly.

24 INMATE MARROQUIN THROUGH THE INTERPRETER:

25 I have an INS hold, so I can consider that that

26 - there's nobody, nor an attorney, or even a

27 M. MARROQUIN H-62380 DECISION PAGE 5 6/6/06

1 judge, over the control that INS has, because I  
2 will be deported. It's very difficult for me to  
3 think that I (indiscernible) work, function, but  
4 to work or function in my mind are making  
5 illusions that I'm going to stay here.

6 PRESIDING COMMISSIONER SHELTON: Okay.

7 INMATE MARROQUIN THROUGH THE INTERPRETER:  
8 For me, that's something impossible.

9 PRESIDING COMMISSIONER SHELTON: I  
10 understand.

11 INMATE MARROQUIN THROUGH THE INTERPRETER:  
12 Deporting (indiscernible).

13 PRESIDING COMMISSIONER SHELTON: Mr.  
14 Marroquin, I understand, but the world is full  
15 of strange happenings and decisions and  
16 nothing's for sure until it happens. I'm just  
17 saying on the - on the off chance, you need to  
18 be prepared - this is - okay. This - this is my  
19 turn. You need to be prepared for the world to  
20 go upside-down sideways. It already has in your  
21 life.

22 INMATE MARROQUIN THROUGH THE INTERPRETER:  
23 Correct.

24 PRESIDING COMMISSIONER SHELTON: Se?

25 INMATE MARROQUIN THROUGH THE INTERPRETER:  
26 Now I understand you.

27 M. MARROQUIN H-62380 DECISION PAGE 6 6/6/06

1           PRESIDING COMMISSIONER SHELTON:   Okay.

2   That's all I'm telling you is that we're guiding  
3   and directing you because we believe in you, all  
4   right? We believe in you, but this is a crazy  
5   world, and you need to be prepared for whatever  
6   way the ball bounces, okay?

7           INMATE MARROQUIN THROUGH THE INTERPRETER:

8   That is correct. Like saying - well, it's like  
9   putting into knowledge, or if I may be allowed  
10   to ask you, what do you think, analyze or know,  
11   what knowledge can you have regarding today?

12          PRESIDING COMMISSIONER SHELTON:   I  
13   understand.   Okay.

14          INMATE MARROQUIN THROUGH THE INTERPRETER:

15   Regarding (indiscernible).

16          PRESIDING COMMISSIONER SHELTON:   Se,  
17   senor.   Yeah.   Yeah.   Yo say.   We were talking  
18   about that earlier.   Bien.   Se bien.

19          INMATE MARROQUIN THROUGH THE INTERPRETER:

20   That's fine.

21          PRESIDING COMMISSIONER SHELTON:   Es bien.

22   Okay. We also want to acknowledge for the  
23   record 32 - the 3042 responses from the District  
24   Attorney's Office in Los Angeles and the Los  
25   Angeles County Sheriff's Department, and again,  
26   I want to reiterate the good things that you

1 have done, I want to go through this again, that  
2 you have an excellent report from the  
3 psychiatrist. You worked hard for a two-year  
4 period to receive your diploma as a diesel  
5 mechanic, and you received that in August '04.  
6 We were particularly impressed that you  
7 continued and continued working on that and  
8 followed through with the directions of your  
9 last Board hearing. Again, you have not  
10 received any 115s during the time you were here,  
11 you've been in AA and NA since 1995, you have  
12 been and continue to participate in Adult Basic  
13 Education, you took a Positive Parenting class,  
14 you took classes on cause and prevention and  
15 treatment of hepatitis, you worked on the Yard  
16 Crew. Most impressive was your request to  
17 participate in individual counseling with Dr.  
18 Reed. What I especially enjoyed talking with  
19 you about was the insight and feeling that you  
20 developed participating in the Criminon course.  
21 You participated in that last year, and for over  
22 a year's period of time, and as I mentioned to  
23 you during the hearing, I believe when you tell  
24 us what you got out of that, because your eyes  
25 lit up, you became animated, and it's like you  
26 discovered a whole new sense of self and sense  
27 M. MARROQUIN H-62380 DECISION PAGE 8 6/6/06

1 of what life means. So this year is a very  
2 important year for you, sir, very, very  
3 important. You have done a lot of good work, we  
4 want you to keep the momentum going, we want you  
5 to keep it rolling, because the more you have  
6 under your belt, the more you can convince other  
7 people like us you have an opportunity for  
8 success outside this institution. Commissioner,  
9 do you have anything to add?

10 DEPUTY COMMISSIONER KEENAN: I would just  
11 concur on your comments and note also you've  
12 been on the right path, you're doing a lot of  
13 good things, and I would say, you know, since  
14 you have other people looking at your case in  
15 the future, keep it up. More is better. That  
16 would be my advice to you. More is better.

17 PRESIDING COMMISSIONER SHELTON: And  
18 don't -

19 INMATE MARROQUIN THROUGH THE INTERPRETER:  
20 Thank you.

21 PRESIDING COMMISSIONER SHELTON: Don't  
22 give it up. Don't give up. Keep on rolling.  
23 All right, sir, good luck to you. We're behind  
24 you.

25 INMATE MARROQUIN THROUGH THE INTERPRETER:  
26 Thank you very much.

27 M. MARROQUIN H-62380 DECISION PAGE 9 6/6/06

81

1           PRESIDING COMMISSIONER SHELTON: The time  
2 is 2:40, and that concludes this hearing.  
3 Seriously, good luck.

4           INMATE MARROQUIN THROUGH THE INTERPRETER:  
5 Thank you.

6                               --oOo--  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

23 PAROLE DENIED ONE YEAR

OCT 04 2006

24 THIS DECISION WILL BE FINAL ON: \_\_\_\_\_

25 YOU WILL BE PROMPTLY NOTIFIED, IF PRIOR TO THAT  
26 DATE, THE DECISION IS MODIFIED.

27 M. MARROQUIN H-62380 DECISION PAGE 10 6/6/06

CERTIFICATE AND  
DECLARATION OF TRANSCRIBER

I, BERENICE BILLINGTON, a duly designated transcriber, PETERS SHORTHAND REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total two in number and cover a total of pages numbered 1 - 81, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING OF MARCO MARROQUIN, CDC NO. H-62380, ON JUNE 6, 2006, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tapes to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated AUGUST 27, 2006, at Sacramento,  
California.



BERENICE BILLINGTON  
TRANSCRIBER  
PETERS SHORTHAND REPORTING



**EXHIBIT "B"**

1 petitioner is a model prisoner in every respect. A parole decision supported by some evidence  
2 may nonetheless abrogate due process if it did not consider and weigh all favorable evidence.  
3 (*In re Capistran* (2003) 107 Cal.App.4th 1299, 1306.)

4 The court finds that petitioner's continual parole denials have been based mainly on the  
5 gravity of the commitment offense, the circumstances of which can never change. Therefore, the  
6 Board's continued sole reliance on the commitment offense will essentially convert petitioner's  
7 original sentence of life with the possibility of parole into a sentence of life without the  
8 possibility of parole. Petitioner has no chance of obtaining parole unless the Board holds that his  
9 crime was not serious enough to warrant a denial of parole. (*Irons v. Warden* (E.D. Cal. 2005)  
10 358 F.Supp.2d 936, 947.)

11 Prior Board panels have found petitioner suitable for parole. -Petitioner was found  
12 suitable for parole on June 18, 1996, but a review unit later disapproved the parole grant. At  
13 subsequent hearings in 1996, 1997 and 1998, petitioner was found unsuitable for parole based on  
14 the gravity of his offense. On September 9, 1999, petitioner was found unsuitable for parole but  
15 the panel set his prison term. On November 18, 1999, Governor Davis reversed petitioner's  
16 parole grant. On June 30, 2000, a new panel found petitioner suitable for parole, but Governor  
17 Davis reversed its decision on October 28, 2000. Petitioner has now served in excess of the  
18 maximum term for both second degree and first degree murder. Therefore, the commitment  
19 offense should no longer function as a factor for unsuitability and in that case, it should no longer  
20 operate as "some evidence" to support the Board's parole denial. Petitioner has reached the  
21 point in which the denial of parole can no longer be justified by reliance on his commitment  
22 offense. The Board's continued reliance on the circumstances of the offense runs contrary to the  
23 rehabilitative goals espoused by the prison system and has violated petitioner's due process.

24 //

25 //

26 //

27 //

28 //

1 Therefore, this court orders that the petition for writ of habeas corpus be, and hereby is,  
2 granted.  
3

4 June 26, 2006  
5




*David S. Wesley*  
DAVID S. WESLEY

Judge of the Superior Court

Clerk to give notice.

# CALIFORNIA APPELLATE COURTS

Case Information

Supreme  
Court**Supreme Court**Change court 

Welcome

Court data last updated: 08/10/2006 10:53 AM

Search

Case Summary Docket BriefsDisposition Parties and Attorneys Lower Court

E-mail

Calendar

Help

Opinions

**Docket (Register of Actions)****ROSENKRANTZ (ROBERT) ON H.C.****Case Number S145504**

Date	Description	Notes
08/02/2006	Petition for review with request for stay filed (criminal)	Amanda Lloyd, Deputy Attorney General
08/02/2006	Exhibit(s) lodged	one bound volume
08/02/2006	Answer to petition for review filed	Robert Rosenkrantz, petitioner Marc Elliott Grossman, counsel Answer submitted to the court with red covers and labeled "Petitioner's opposition to supersedeas/stay"
08/03/2006	Petition for review and application for stay denied	

[Click here to request automatic e-mail notifications about this case.](#)

© 2004 Judicial Council of California

LAW OFFICES OF  
 CONE & DEFILIPPIS  
 115 North First Street  
 San Jose, CA 95112

# CALIFORNIA APPELLATE COURTS

2

Case Information

Welcome

2nd Appellate District

Change court

Search

Court data last updated: 08/10/2006 11:11 AM

E-mail

Case Summary Docket Scheduled Actions Briefs  
Disposition Parties and Attorneys Trial Court

Calendar

Help

Docket (Register of Actions)

Opinions

The People v. Rosenkrantz et al.

Division 1

Case Number B192676

CIC

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Date	Description	Notes
07/28/2006	Request for stay filed.	
07/28/2006	Order filed.	The Court has read and considered Rosenkrantz's ptn...and the AG's ptn for writ of supersedeas B192676. The parties are ordered as follows: (1) By ltr brfs via fax or personal delivery on opposing cnsl and filed by 3 p.m., on 7/31/06 and explain (*see order*) (2) If rpt's transcript of any of the relevant proceedings (including hrng on petn for writ of hc and all subsequent hrngs) have been preprd, they are to be lodged w/this Crt as soon as possible but not later than 3 p.m. on 7/31/06; if the transcripts have not been prepared, they shall be immediately obtained and lodged as soon as possible. (3) Opo to Rosenkrantz's emerg. ptn case no. B192599 is to be srvd via fax or by personal srvc on Rosenkrantz's cnsl and filed by 3p.m. on 7/31/06.
07/28/2006	Received:	cc of notice of appeal by AG w/received stamp of 7/28/06 from Superior Court Crim Appeals Unit
07/31/2006	Received:	cc of FILED stamped notice of appeal (7/28/06) by AG from LA Sup Crt - CRIM Appeals Unit
07/31/2006	Letter brief filed.	Attorney: Grossman, Marc Party: Rosenkrantz, Robert
07/31/2006	Letter brief filed.	Attorney: Office of the Attorney General Party: The People
07/31/2006	Petition summarily denied	Writ of supersedeas/stay has been read and considered. The petition

**EXHIBIT “D”**

MEMORANDUM OF POINTS AND AUTHORITIESIFAILURE OF THE TRIAL JUDGE, SUA SPONTE,  
TO GIVE REQUIRED MANDATORY INSTRUCTION OF  
LESSER INCLUDED OFFENSE OF MANSLAUGHTER  
OVER DEFENSE COUNSEL'S OBJECTION.

In 1927, California Penal Code section §1181 was amended by adding subdivision 6, which empowered either the trial court or an appellate court to modify the judgment to a lesser degree of a lesser offense. In 1951, the section was amended to read as at present, authorizing the court to "modify" the verdict, finding or judgment. The purpose of these amendments was to obviate the necessity of a new trial when the trial court, on a motion for a new trial, or an appellate court, on appeal, believed that the evidence established the lesser offense, but not the greater.

Petitioner alleges that the trial court erred in not giving the lesser included manslaughter instruction, sua sponte, over defense counsel's objection. The trial record reflects the following facts:

The Court: (RT 672), Two days ago I gave counsel a packet of instructions; and the packet of instructions included the law of first degree murder, second degree murder, voluntary manslaughter self-defense as well as justifiable homicide in the course of self-defense and instructions related there to.

This morning I have added to your packet involuntary manslaughter instructions based upon misdemeanor manslaughter -- excuse me -- yes, based upon a misdemeanor battery theory and also a killing with undo -- by gross negligence, the 8.45 instruction.

1 The Court: (RT 673), The defense from Mr. Marroquin  
2 has been strictly self-defense.

3 I have a duty under the law to instruct on all of the  
4 issues; However, if I instruct on the manslaughter instructions,  
5 voluntary or involuntary, it may be harmful to the defendants  
6 case ....

7 Mr. Browne: (RT 674), ... for tactical reasons, your  
8 Honor, I am not going to request the 192 instructions, the  
9 argument will be based on a self-defense theory purely.

10 The Court: (RT 675), So you don't wish either the  
11 voluntary or the involuntary manslaughter instructions?

12 Mr. Browne: For the record and for those tactical  
13 reasons, I do not wish that they be given.

14 The Court: And I saw Mr. Marroquin nod his head.

15 Petitioner's defense was based on a theory of self-defense  
16 and the issue of "need not retreat". The trial record establishes  
17 the facts relating to "an argument", "broken beer bottles" and  
18 "fear". While the record shows that the trial court judge offered  
19 the manslaughter instructions and that this instruction was  
20 refused by the trial counsel for "tactical" reasons, it was  
21 judicial error not to give the lesser included instruction,  
22 sua sponte, over counsels objection.

23 The sua sponte rule seems undoubtedly designed to promote  
24 the ends of justice by providing some judicial safeguards for  
25 defendants from the possible vagaries of ineptness of counsel  
26 under the adversary system, so held the court in, People v.  
27 Wade, 53 Cal.2d at p. 334, 1 Cal.Rptr. at p. 692, 348 P.2d at  
28 p. 125.



1 In the case of People v. Thompkins, 240 Cal. Rptr. 516  
2 (Cal. App. 4 Dist. 1987) the court held at page 517 at (4) "It  
3 was error, when instructing on attempted murder, to fail to  
4 give instruction on lesser included offense of attempted  
5 voluntary manslaughter, EVEN if defense counsel expressly waived  
6 instruction on attempted voluntary manslaughter."

7 The court further stated at p. 523 [4] "The OBLIGATION  
8 to instruct on lesser included offenses exists EVEN WHEN as  
9 a matter of trial tactics a defendant not only fails to request  
10 the instruction BUT expressly objects to its being given." People  
11 v. Seden, 10 Cal.3d 703, 716, 112 Cal. Rptr. 1, 518 P.2d 913.

12 The Court further stated, at p. 523;

13 "We sympathize with the burden sua sponte  
14 instructional requirements create for trial courts.  
15 Where defense counsel drafts "pinpoint" instructions  
16 which focus on issues highlighted by the theory of  
17 defense, however, the burden on the trial court is  
18 minimal. It consists primarily of understanding the  
relevant legal principles well enough to determine  
whether the proffered instructions constitute accurate  
statements of law. In this regard, we assume  
prosecutors will always be available to alert the  
court to any inaccuracies in the defense offerings."

19 The recently published case of People v. Ceja, 94 daily  
20 Journal D.A.R. 9081, June 29, 1994 bears many similarities to  
21 the case at bar; Both cases were in the same neighborhood,  
22 Compton, both had similar .380 caliber guns, both victims had  
23 Corona beer bottles in their hands, both defendants were in  
24 fear of their lives, although no weapon was found on the victim  
25 in the Ceja, supra case this is not the facts in Petitioner's  
26 case.

27 With respect to the murder count, Petitioner contends the  
28 trial court committed reversible error by failing to instruct

1 on the lesser included offenses of voluntary and involuntary  
2 manslaughter over defense objection when in fact it was offered  
3 because the trial judge believed there was sufficient evidence  
4 to support that finding by a jury. The jury was instructed on  
5 justifiable self-defense as a complete defense to the murder  
6 charge.

7 A trial court must instruct the jury on every theory that  
8 is supported by substantial evidence and does not err when it  
9 refuses to instruct on theories not so supported. People v.  
10 Flannel, (1979) 25 Cal.3d 668, 685. see also People v. Glenn,  
11 (1991) 29 Cal. App.3d 1461, 1465.

12 A genuine but unreasonably held belief in the need to defend  
13 negates the malice and reduces the offense to manslaughter.  
14 The California Supreme Court in the very recent case of In re  
15 Christian, 94 Daily Journal D.A.R. 6607 upheld the continued  
16 viability of the imperfect self-defense and concluded that  
17 "[w]hen the trier of fact finds that a defendant killed another  
18 person because the defendant actually but reasonably believed  
19 he was in imminent danger of death or great bodily injury, the  
20 defendant is deemed to have acted without malice and cannot  
21 be convicted of murder." (Id. at p. 6612; see also People v.  
22 DeLeon, (1992) 10 Cal. App. 4th 815, 821-825).

23 While the defendant testified that the victim came at him  
24 with what he believed to be a knife and again came at him with  
25 a broken bottle, even though witnesses testimony conflicts at  
26 this point to finding no broken bottle, then finding broken  
27 bottle(s), a witness to the actual attack by the victim.  
28 Additionally, defendant testified he did not want to fight or

1 hurt the victim but was frightened, "I felt the kiss of death".  
2 The jury might well have concluded that the defendant was  
3 mistaken about the victim being armed but also have concluded  
4 that the defendant honestly but reasonably believed his life  
5 was in danger, making the killing at most voluntary or  
6 involuntary manslaughter.

7 While a defendant may be mistaken and still claim  
8 self-defense, that mistake must be reasonable. See State v.  
9 Kelly, (N.J. 1984) 478 A.2d 364, 373; State v. Vasquez, (N.J.  
10 Super. A.D. 1993) 628 A.2d 346, 356. An actual but unreasonable  
11 mistake about the threat of imminent peril, on the other hand,  
12 would not support self-defense yet would support imperfect  
13 self-defense. The imperfect self-defense doctrine allows for  
14 a situation where a reasonable man would not conclude a set  
15 of keys held in the victim's hand was a gun, but the jury  
16 nonetheless could decide the defendant actually but unreasonably  
17 held such a belief.

18 In one sense, imperfect self-defense is a "lesser included"  
19 defense of perfect self-defense. They share common elements;  
20 the defendant killed because of an "actual" belief he was in  
21 imminent danger of death or great bodily injury. Perfect  
22 self-defense, however, requires proof of an additional element;  
23 the defendant's belief was reasonable. For this reason, one  
24 cannot establish the elements of perfect self-defense without  
25 proving imperfect self-defense. For this same reason, if there  
26 is sufficient evidence of all the elements required to justify  
27 a perfect self-defense instruction, by definition there is  
28 sufficient evidence supporting an instruction for the "lesser

1 included" defense of imperfect self-defense. This is the logic  
2 which impelled the disposition of this same issue in People  
3 v. DeLeon, supra, 10 Cal.App. 4th 815. Adherence to this ruling  
4 in DeLeon requires trial courts to instruct on imperfect  
5 self-defense whenever they instruct a jury on self-defense.

6 At issue in the case at bar is the fact that the trial  
7 court judge found sufficient evidence, on his own, to offer  
8 the lesser included instructions of voluntary and/or involuntary  
9 manslaughter. All though the record shows that the defense  
10 counsel objected to this instruction this is not the issue as  
11 the rule states "it is the duty of the trial court judge to  
12 give the instruction, sua sponte", even over objection when  
13 the evidence is sufficient to warrant the instruction.

14 The following cases deal with the issue before this  
15 Honorable Court:

16 U.S. v. Schweihs, 971 F.2d 1302 (7th Cir. 1992) and U.S.  
17 v. Washington, 819 F.2d 221 (9th Cir. 1987) have both held that:

18 1) Defendant is entitled to instruction on any defense  
19 recognized in law and supported by sufficient evidence to allow  
20 reasonable jury to find in defendant's favor.

21 2) District Court must give instruction regarding  
22 any legitimate theory of defense that is supported by evidence,  
23 and failure to do so is reversible error.

24 In the case of U.S. v. Zuniga, 989 F.2d 1109 (9th Cir.  
25 1993) which dealt with an alibi issue, Petitioner contends that  
26 the legal principle is the same. Petitioner will substitute  
27 the word "manslaughter" for the case word "alibi" in the  
28 following statement. "Even if the alibi (manslaughter) evidence

1 is weak, insufficient, inconsistent, or of doubtful credibility,  
2 alibi (manslaughter) instructions should be given."

3 Defendant in criminal trial is entitled to have jury  
4 consider any theory of defense that is supported by law and  
5 that has some foundation in evidence. U.S. v. Carter, 910 F.2d  
6 1524 (7th Cir. 1990).

7 If evidence would permit jury to find defendant guilty  
8 of a lesser included offense, defendant is entitled to  
9 instruction on that defense. U.S. v. Cavanaugh, 948 F.2d 405  
10 (8th Cir. 1991) and U.S. v. Sotelo-Rivera, 906 F.2d 1324 (9th  
11 Cir. 1990).

12 "Failure to give jury instruction on defense when some  
13 evidence supported it is reversible error." People of Territory  
14 of Guam v. Agualo, 948 F.2d 1116 (9th Cir. 1991); U.S. v. Duncan,  
15 850 F.2d 1104 (6th Cir. 1988); U.S. v. Coin, 753 F.2d 1510 (9th  
16 Cir. 1985).

17 "The equal protection clause essentially requires that  
18 all persons similarly situated be treated alike". Mahone v. Addicks  
19 Utility Dist. of Harris County, 836 F.2d 921 (5th Cir. 1988);  
20 City of Cleburne v. Cleburne Living Center, 473 U.S. 432, 87  
21 L.Ed.2d 313, 105 S.Ct. 3249, 1985.

22 The words "Duty", "Must give", "Obligated to by law" are  
23 but a few of the words in the case at bar describing the duty  
24 owed to Petitioner at trial by the trial court judge. These  
25 words show the "Existence of a legal duty owed" to this  
26 Petitioner. These words present a "Peremptory duty", City of  
27 Milwaukee v. Saxbe, 546 F.2d 693, 700 (7th Cir. 1976), these  
28 words do not permit "DISCRETION", and have been imposed by a

1 constitutional mandate that has been "CLEARLY ESTABLISHED" by  
 2 judicial decision. Harlow v. Fitzgerald, 457 U.S., 800, 819  
 3 (1982).

4 This "DUTY" "so plainly prescribed as to be free from  
 5 doubt", Tagupa v. East-West Center, Inc., 642 F.2d 1197, 1129  
 6 (9th Cir. 1981).

7 Petitioner contends that it was judicial error and that  
 8 there was no discretion permitted for the trial judge's failure  
 9 to give the instruction, sua sponte, over counsel's objection  
 10 and contends that this Honorable Court may, in the interest  
 11 of justice, modify the verdict to an involuntary manslaughter  
 12 finding based on the facts in the record and the People v. Ceja,  
 13 supra, case as herein stated.

## 14 II

### 15 FAILURE OF THE PROSECUTOR TO CORRECT 16 "KNOWN" PERJURED TESTIMONY, AND FAILURE 17 TO EFFECTIVELY CORRECT THAT PERJURY.

18 Witness, Guadalupe Suazo at (RT 147) states that he never  
 19 told the Deputies that he saw Petitioner and victim arguing  
 20 inside the bar prior to the killing. At (RT 151) he again denies  
 21 that he told the Deputies about what he saw and heard regarding  
 22 the argument in the bar.

23 Witness, Angeli Lespia, (RT 176) states that she never  
 24 told police that defendant and victim had a verbal argument.

25 Deputy Young testified at (RT 226) "The suspect said that  
 26 they had an argument inside the bar over disrespecting his  
 27 family", victim threatened to "kick the suspects ass". At (RT  
 28 233) he further testifies that he interviewed both the guard

**EXHIBIT "E"**

COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA, )

PLAINTIFF-RESPONDENT, )

VS. )

MARCO TULIO MARROQUIN, )

DEFENDANT-APPELLANT. )

SUPERIOR COURT  
CASE NO. TA016787

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE ELIZABETH A. BARON, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: DANIEL E. LUNGREN,  
STATE ATTORNEY GENERAL  
300 SOUTH SPRING STREET  
NORTH TOWER, SUITE 5001  
LOS ANGELES, CALIFORNIA 90013

FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME III OF V  
(PAGES 370 TO 535, INCLUSIVE)

DONNA L. DERICHSEILER, CSR #2696  
OFFICIAL REPORTER  
800 W. COMPTON BLVD., DEPT. D  
COMPTON, CALIFORNIA 90220



(CORONER)

1 BY MS. CALLAHAN:

2 Q CAN YOU PLEASE STEP DOWN FROM WHERE YOU ARE  
3 SEATED, DR. REDDY, AND APPROACH THE DIAGRAM THAT IS TO YOUR  
4 IMMEDIATE LEFT. CAN YOU PLEASE TAKE THE RED AND BLUE PEN WITH  
5 YOU.

6 WITH THE RED PEN, CAN YOU PLEASE SHOW US WHERE  
7 THAT BULLET FIRST ENTERED ON THE DIAGRAM YOU HAVE IN FRONT OF  
8 YOU, P-19.

9 A THIS IS THE LEFT SIDE OF THE BODY. THIS IS THE  
10 RIGHT SIDE. THE BULLET ENTERED SOMEWHERE HERE.

11 (WITNESS INDICATES.)

12 THE BULLET ENTERED THE LEFT UPPER ARM RIGHT ABOUT  
13 HERE AND EXITED RIGHT NEXT TO IT AND THEN REENTERED ABOUT HERE  
14 INTO THE ABDOMEN.

15 (WITNESS INDICATES.)

16 Q CAN YOU PLEASE MARK ON THE ABDOMEN THE APPROXIMATE  
17 AREA IN RED PEN WHERE THE BULLET ENTERED.

18 A (WITNESS COMPLIES.)

19 Q CAN YOU PLEASE SHOW --

20 A IT WAS A LITTLE CLOSER.

21 (WITNESS INDICATES.)

22 Q CAN YOU PLEASE SHOW WHERE, WITH THE BLUE PEN,  
23 WHERE THE BULLET TRAVELED AFTER IT ENTERED.

24 A IT TRAVELED THIS WAY AND THEN THIS WAY.

25 (WITNESS INDICATES.)

26 MS. CALLAHAN: YOUR HONOR, I HAVE A PARTIAL PHOTO OF AN  
27 AUTOPSY PHOTOGRAPH THAT I HAVE PREVIOUSLY SHOWN TO THIS WITNESS  
28 IN FULL.

1 I WOULD LIKE TO MARK THE PARTIAL PHOTO WHICH  
2 DEPICTS THE LEFT SIDE OR PORTIONS OF THE LEFT SIDE OF THE  
3 INDIVIDUAL'S BODY AS P-20.

4 THE COURT: IT WILL BE SO MARKED.

5 MS. CALLAHAN: I HAVE SHOWN IT TO COUNSEL.

6 Q I AM SHOWING YOU P-20 FOR IDENTIFICATION.

7 DO YOU RECOGNIZE THAT PHOTOGRAPH AS SOMETHING I  
8 SHOWED YOU PREVIOUSLY?

9 A YES.

10 Q IS THIS ONE OF THE PHOTOGRAPHS THAT WAS TAKEN IN  
11 CONNECTION WITH THE AUTOPSY OF LUIS SILVA?

12 A YES.

13 Q HOW DID YOU KNOW THAT?

14 A I VERIFIED THE CORONER'S CASE NUMBER GIVEN TO THIS  
15 CASE WAS PLACED ON THE BODY ACTUALLY; SO I SAW THE NUMBER THAT  
16 VERIFIES.

17 Q IS THAT PORTION OF THE NUMBER PART OF THE  
18 PHOTOGRAPH THAT IS MISSING?

19 A YES.

20 Q CAN YOU PLEASE STEP DOWN FROM THE WITNESS STAND  
21 AND STEP OVER TO THE PHOTOGRAPH AND SHOW THE JURORS WHERE THE  
22 PROBE IS AND WHAT THE PROBE MEANS IN THAT PHOTOGRAPH.

23 MR. BROWNE: MAY I, YOUR HONOR?

24 THE COURT: YES.

25 THE WITNESS: THIS IS THE PROBE DR. MUKADUM PLACED ON  
26 THE GUNSHOT WOUND STARTING FROM THE ENTRANCE AND LEAVING THE  
27 ARM AND THEN ENTERING INTO THE ABDOMEN AGAIN.

28 (WITNESS INDICATES.)

1 Q YES, MA'AM.

2 A APPROXIMATELY ABOUT 7,000 AUTOPSIES.

3 Q AND THAT IS OVER A PERIOD OF HOW MANY YEARS?

4 A TWELVE YEARS. ACTUALLY SIXTEEN YEARS.

5 Q WERE THEY ALL PERFORMED FOR THE LOS ANGELES COUNTY  
6 MEDICAL EXAMINER?

7 A MOST OF THEM, YES.

8 Q NOW, YOU HAVE INDICATED THAT THE DECEASED WAS  
9 APPROXIMATELY FIVE FEET TWO INCHES TALL; IS THAT CORRECT?

10 A THAT'S CORRECT.

11 Q AND WEIGHED ABOUT 160 POUNDS?

12 A YES.

13 Q NOW, YOU MENTIONED THERE WERE TWO WOUNDS. ONE  
14 APPEARED TO BE A FLESH WOUND IN THE LEFT ARM, WOULD THAT BE A  
15 FAIR CHARACTERIZATION?

16 A IT IS A PERFORATING WOUND.

17 Q BUT IT WENT THROUGH FLESH, DID IT NOT?

18 A YES.

19 Q AND IT WAS APPROXIMATELY, WHAT, AN INCH OR SO FROM  
20 THE CENTER OF HIS ARM IF WE WERE LOOKING RIGHT DOWN THE MEDIAL  
21 PORTION OF HIS ARM?

22 A I DON'T KNOW. HE MEASURED FOUR INCHES ABOVE THE  
23 ELBOW. FROM HERE IT WOULD BE FOUR INCHES.

24 (WITNESS INDICATES.)

25 Q THE HEIGHT OF IT. I AM NOW CONCERNED WITH THE  
26 DISTANCE FROM THE REAR OF HIS ARM TO THE FRONT OF HIS ARM.

27 A LET ME LOOK FOR YOU EXACTLY.

28 Q PLEASE.

1           A       HE DIDN'T SAY WHERE IT IS; BUT ACCORDING TO THE  
2 PHOTOGRAPHS AND PICTURES, FROM HERE TO HERE LIKE I SHOWED  
3 THERE.

4                   (WITNESS INDICATES.)

5           Q       WHAT WOULD THAT BE IN TERMS OF INCHES FROM THE  
6 CENTER OF HIS ARM?

7           A       IT IS NOT MENTIONED.

8           Q       NO WAY OF KNOWING?

9           A       WELL, YOU CAN SEE THE PHOTOGRAPHS AND DIAGRAMS,  
10 THEY ARE RIGHT, YOU KNOW, CLOSE TO EACH OTHER.

11          Q       YOU DON'T HAVE AN ESTIMATE?

12          A       EXCUSE ME?

13          Q       YOU DON'T HAVE AN ESTIMATE OF THAT DISTANCE?

14          A       I CAN'T ESTIMATE.

15          Q       VERY WELL.

16                   NOW, THERE WAS, AS I SAY, A MENTION OF TWO WOUNDS;  
17 AND THEY, OF COURSE, TO CLEAR UP ANY CONFUSION, WERE ALL CAUSED  
18 BY THE SAME ROUND; IS THAT CORRECT?

19          A       YES.

20          Q       NOW, YOU MENTIONED THAT THE ARM HAD TO BE CLOSE TO  
21 THE BODY AT THE TIME THE GUN WAS FIRED.

22          A       YES.

23          Q       WHAT MAKES YOU SAY THAT?

24          A       BECAUSE THE BULLET ENTERED THE BODY. IF IT IS FAR  
25 AWAY, IT IS UNLIKELY TO ENTER THE BODY.

26          Q       AND IN THAT PARTICULAR DIRECTION -- TRAJECTORY, I  
27 SHOULD SAY, THAT ALSO INDICATES IT WAS RATHER CLOSE TO THE  
28 BODY?

1 A YES.

2 Q AND THAT COULD HAVE BEEN ANYWHERE FROM DIRECTLY  
3 TOUCHING IT OR WITHIN A FEW INCHES?

4 A YES.

5 Q NOW, IN THE TRAJECTORY THAT YOU HAVE ILLUSTRATED  
6 ON PEOPLE'S 19, WHICH IS UP ON THE BOARD THERE, YOU HAVE MADE A  
7 LINE THAT APPEARS TO GO THROUGH THE LEFT ARM AND ENTER THE  
8 BODY.

9 DO YOU SEE THAT?

10 A YES.

11 Q AND THEN THE LINE SEEMS TO TAKE ANOTHER  
12 DIRECTION.

13 ARE YOU INDICATING BY THAT LINE THAT THE WOUND  
14 ENTERED AND THEN STARTED TO MOVE UPWARD?

15 A YES.

16 Q WHAT CAUSED THAT?

17 A BENDING OF THE BODY.

18 Q NOW, YOU HAVE ALSO INDICATED THAT YOU BELIEVE THE  
19 WEAPON --

20 A ONE MOMENT. I WANTED TO SAY SOMETHING. BENDING  
21 OF THE BODY, SOMETIMES THE BULLET MAY RICOCHET, HITTING A  
22 PORTION OF THE ORGAN IN THE BODY. RICOCHET MEANS THAT IT IS  
23 GOING STRAIGHT AND THEN REFLECT IN A DIFFERENT DIRECTION.

24 Q AND ARE YOU INDICATING THAT THE BODY MOST LIKELY  
25 BENT AT THE WAIST?

26 A IT COULD BE ANY OF THOSE THINGS. IT COULD BE  
27 BENDING OF THE BODY, RICOCHET OF THE BULLET.

28 Q IF IT WAS BENDING OF THE BODY, WOULD IT HAVE BEEN

1 WHEN YOU SAY IT ENTERED -- OR RATHER THE CAUSE OF  
2 DEATH WAS A GUNSHOT WOUND TO THE ABDOMEN?

3 A YES.

4 Q AND, OF COURSE, THAT CAUSED SOME BLEEDING?

5 A YES.

6 Q IN FACT, THE BLEEDING WAS THE CAUSE OF DEATH,  
7 WASN'T IT?

8 A BLEEDING AND ALSO DESTRUCTION OF THE TISSUES. ONE  
9 OF THE KIDNEYS ACTUALLY HAS TO BE REMOVED AND A PORTION OF THE  
10 COLON HAS TO BE REMOVED; SO THAT ALSO IS A MAJOR REASON.

11 Q WITH RESPECT TO THE TRAJECTORY AGAIN OF THE ENTRY  
12 WOUND, COULD YOU TELL US IN YOUR BEST ESTIMATE APPROXIMATELY  
13 WHAT HEIGHT THE WEAPON WAS THAT FIRED THE BULLET?

14 A NO.

15 Q COULD YOU TELL US WHETHER OR NOT THE BODY OR SOME  
16 PORTION OF THE VICTIM WAS IN MOTION AT THE TIME THE WEAPON WAS  
17 FIRED?

18 A IT'S POSSIBLE.

19 Q WOULD THAT KIND OF A TRAJECTORY, THAT KIND OF A  
20 WOUND, CAUSE IMMEDIATE EXPIRATION OR IMMEDIATE DEATH?

21 A YES, IT'S POSSIBLE, YES.

22 Q IN THIS CASE, DO YOU KNOW WHEN DEATH OCCURED?

23 A YEAH, I CAN LOOK UP. IT IS ALL DOCUMENTED IN THE  
24 HOSPITAL AND ALL THAT.

25 Q IF YOU COULD.

26 A THE DATE AND TIME OF THE INJURY HE RECEIVED,  
27 ACCORDING TO THIS INFORMATION, 1-13-92 AT 0020 HOURS.

28 Q THAT WOULD HAVE BEEN 20 MINUTES AFTER MIDNIGHT?

1 A YEAH, SOON AFTER MIDNIGHT.

2 Q AND --

3 A AND THEN HE DIED AT 1-13 -- SAME DAY, 1-13-92, AT  
4 739 HOURS.

5 Q THAT WOULD HAVE BEEN APPROXIMATELY 7:30 THAT  
6 MORNING; SO APPROXIMATELY SEVEN HOURS LATER?

7 A YES.

8 CAN I SAY ONE MORE THING?

9 Q SURE.

10 A ALL THESE SEVEN HOURS HE WAS IN SURGERY. THEY  
11 TRIED TO DO SURGERY TO HIM OF THE BULLET INJURY.

12 Q I THINK WE ALL UNDERSTAND.

13 NOW, BASED ON YOUR EXPERIENCE, WOULD A PERSON  
14 RECEIVING SUCH A WOUND BE ABLE TO MOVE, TAKE A STEP OR TWO OR  
15 THREE OR WHATEVER FROM THE MOMENT OF HIS WOUND TO THE POINT  
16 WHERE HE MAY HAVE BEEN FOUND ON THE GROUND?

17 A IT'S POSSIBLE.

18 Q IS THERE ANY WAY OF ESTIMATING HOW MANY OR HOW FAR  
19 OF A DISTANCE HE COULD HAVE MOVED IN TERMS OF STEPS?

20 A I CAN'T -- EACH PERSON IS DIFFERENT. SOME  
21 PEOPLE --

22 Q WHAT YOU CAN SAY, HOWEVER, THAT MOVEMENT IS  
23 POSSIBLE?

24 A MOVEMENT IS POSSIBLE, YES.

25 Q AND HOW FAR WE DON'T KNOW?

26 A I DON'T KNOW. AND HOW MUCH, I DON'T KNOW.  
27 MR. BROWNE: I HAVE NOTHING FURTHER AT THIS TIME.

28 THE COURT: MISS CALLAHAN?

**EXHIBIT “F”**



BOARD OF PRISON TERMS  
LIFE PRISONER HEARING DECISION SHEET

STATE OF CALIFORNIA

- ☐ PAROLE GRANTED - (YES)  
☐ CDC: Do not release prisoner before  
 Governor's Review

☒ PAROLE DENIED - (NO) *1 (one) year*

## Records Use Only

Parole Release Date \_\_\_\_\_  
 YR MO DAY

Attach Prison Calculation Sheet

- ☐ AGREED UNSUITABLE (Attach 1001A Form) FOR: \_\_\_\_\_ YEAR(S)  
☐ HEARING POSTPONED/REASON: \_\_\_\_\_

## PANEL RECOMMENDATIONS AND REQUESTS

## The Board Recommends:

- ☐ No more 115's or 128A's  
☐ Work to reduce custody level  
☒ Get self-help\*

- ☒ Stay discipline free  
☐ Learn a trade\*  
☐ Get therapy\*

- ☒ Earn positive chronos  
☐ Get a GED\*

- ☐ Recommend transfer to \_\_\_\_\_  
☐ Other \_\_\_\_\_

\*These programs are recommended if they are offered at your prison and you are eligible / able to participate.

Penal Code 3042 Notices ☒ Sent Date: 4-21-06

## Commitment Offense(s)

187 2<sup>ND</sup> W/ 12022.5(A)  
 Code(s)

MURDER 2<sup>ND</sup> W/ USE OF FIREARM  
 Crime(s)

TA016787  
 Case(s)

01  
 Count(s)

Date Inmate Came to CDC 1-14-93	Date Life Term Began 12-24-93	Minimum Eligible Parole Date 12-24-03
<input type="checkbox"/> Initial Hearing	<input checked="" type="checkbox"/> Subsequent (Hearing No.) 1	Date of Last Hearing 11-21-02

## CDC Representative

Attorney for Prisoner RICHARD RUTLEDGE Address \_\_\_\_\_

D.A. Representative \_\_\_\_\_ County LOS ANGELES

This form and the Board's decision at the end of the hearing on only proposed and NOT FINAL. It will not become final until it is reviewed

Chair

*Linda Skilton*

Date

Panel Member

*W. J. K...*

Date

Panel Member

Date

NAME	CDC#	PRISON	CALENDAR	DATE
MARROQUIN, MARCO	H-62380	CTF-SOLEDAD	JUNE 2006	6-6-06

PROOF OF SERVICE BY MAIL

C.C.R. 1013(a)(1)(a)(2)

I, Marco Marroquin, declare that;

I am over 18 years of age, that I am the pro per Petitioner to the hereto attached cause of action, and that I reside at CTF-Central, California State Prison, CA. My complete mailing address is; Marco Marroquin, H-62380, Box 689 C-117L, California State Prison, Soledad, CA 93960-0689

On October 19, 2006, I placed the enclosed/attached documents: (A), Petitioners Transcripts of the June 6, 2006 parole suitability hearing, the subject of the instant petition: (B), SETTLEMENT AGREEMENT AND FULL AND FINAL RELEASE OF ALL CLAIMS: (C), In re Robert Rosenkrantz (BHO03529): (D), Petitioner's "Sua Sponte" claim: (E), Coroner's Report, and, (F), Petitioner's "Hearing Sheet". in the hands of prison officials for mail room processing, with postage fully prepaid, as directed by prison regulations, addressed to the following:

District Attorney  
of Los Angeles  
200 W. Compton, Blvd  
Compton, CA. 90220

Superior Court of Compton  
County of Los Angeles  
200 W. Compton Blvd  
Compton, CA. 90220

I declare under penalty of perjury that the foregoing is true and correct. Executed this 19 of October, 2006, at Soledad, California (State Prison), County of Monterey.

  
Marco Marroquin

FILED  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
AUG 25 2008